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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-----------------------|---------------------|------------------|
| 10/663,072   | 09/16/2003  | Benny Donald Mashburn | 474.005             | 2056             |
| 29166  | 7590        | 06/07/2006            | EXAMINER            |                  |
| <b>PERRET DOISE</b><br>A PROFESSIONAL LAW CORPORATION<br>P.O. Box 3408<br>LAFAYETTE, LA 70502-3408 |             |                       |                     | GROSSO, HARRY A  |
|  |             | ART UNIT              |                     | PAPER NUMBER     |
|  |             | 3727                  |                     |                  |

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b>    |
|------------------------------|------------------------|------------------------|
|                              | 10/663,072             | MASHBURN, BENNY DONALD |
| Examiner                     | Art Unit               |                        |
| Harry A. Grosso              | 3727                   |                        |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 17 March 2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) 21 and 22 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-20 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 16 September 2003 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_.  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

***Election/Restrictions***

1. Claims 21 and 22 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 17, 2006.

***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the inner and outer corner members with a circular cross section (claim 20) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1, 2, 6-9, 12, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel (6,422,405) in view of Keenan et al (4,714,169) (Keenan) and Steyn et al (2004/0206879 A1, October 21, 2004).

5. Regarding claims 1 and 2, Haenszel discloses a tool basket having a center section of rectangular cross section shape with outer corner members (25, 30 and 45) joined by bottom and side members and wing sections with inner corner members (50) disposed with the outer corner members forming an annulus between the inner and outer members (Figures 2, 3 and 8). Haenszel does not teach outer members at all four corners. Keenan discloses a tool basket with a center section and corner members at all four corners joined by bottom and side members. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of corner members at all four corners joined by bottom and side members as disclosed by Keenan in the basket disclosed by Haenszel to provide additional structural strength and rigidity.

Haenszel does not teach the use of inner and outer bushings on the corner members. Steyn discloses a telescoping member (Figure 1A) with a bushing on the inner member (26) that is a cap over an end of the inner member and a bushing on the outer member (2) with both bushings disposed in the annulus between the inner and outer members (paragraph 0038). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of bushings as disclosed by Steyn in the basket disclosed by Haenszel to provide for smooth movement of the inner member in the outer member and prevent the inner member from being unintentionally pulled completely out of the outer member.

6. Regarding claims 6 and 7, Haenszel discloses a means for locking the wing section the center section comprising holes and pins (Figures 2 and 8, A-D and pin 65, column 4, lines 29-43).
7. Regarding claim 8, Haenszel discloses tool cradles in the center section (Figure 9).
8. Regarding claim 9, Haenszel discloses a skid under the center section (Figures 1 and 2).
9. Regarding claim 12, Haenszel as modified by Keenan and Steyn discloses the adjustable basket with tubular inner and outer corner members and bushings and means for locking the wing section and the center section as discussed above.
10. Regarding claim 19, Haenszel discloses the inner and outer corner members have a rectangular cross section.

11. Regarding claim 20, Haenszel as modified by Keenan and Steyn discloses the claimed invention except for the inner and outer corner members having a circular cross section. It would have been an obvious matter of design choice to have inner and outer corner members with a circular cross section, since applicant has not disclosed that the inner and outer corner members having a circular cross section solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the inner and outer corner members of Haenszel.

12. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel, Keenan and Steyn in view of Friedman et al (3,604,734). Haenszel, Keenan and Steyn disclose the invention except for the use of an elastomer such as polytetraflouoroethylene for the bushings. Friedman et al discloses the use of a polytetraflouoroethylene (Teflon) as a bushing between inner and outer tubular members (Figure 4, column 2, lines 56-64). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a polytetraflouoroethylene bushing as disclosed by Friedman et al in the basket of claim 1 because it is known to use polytetraflouoroethylene as a bushing material between inner and outer tubular members that telescope.

13. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel, Keenan and Steyn in view of Moran (2002/0016211 A1, February 7, 2002). Haenszel, Keenan and Steyn disclose the invention except for the use of brass for the bushings. Moran discloses the use of brass as a bushing between inner and outer tubular members (41, Figure 6, paragraph 0040). It would have been obvious to one of ordinary

skill in the art at the time the invention was made to have incorporated the use of a brass bushing as disclosed by Moran in the basket of claim 1 because it is known to use brass as a bushing material between inner and outer tubular members that telescope.

14. Claim 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel, Keenan and Steyn in view of Serden (7,000,795). Haenszel, Keenan and Steyn disclose the invention except for the use of rollers on the wing sections. Haenszel discloses rollers (70) on the center section. Serden discloses a container with a center section and wing sections with a roller at the outer end of the wing section to facilitate moving it out from the center section (52, Figure 2, column 2, lines 41-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of rollers on the wing section as disclosed by Serden in the basket of claim 9 to facilitate moving the wing section out from the center section.

15. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel, Keenan, Steyn and Serden in view of Kurtgis (4,478,312). Haenszel, Keenan, Steyn and Serden disclose the invention except for the use of padeyes on the center section. Kurtgis discloses a basket with a center and wing sections and padeyes on the center section for lifting the basket with cables (26, Figures 1-4) It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of padeyes on the center section as disclosed by Kurtgis in the basket of claim 10 to provide a means for lifting the basket with cables.

16. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel, Keenan and Steyn in view of Kurtgis. Haenszel, Keenan and Steyn disclose

the invention except for the use of padeyes on the center section. Kurtgis discloses a basket with a center and wing sections and padeyes on the center section for lifting the basket with cables as disclosed above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of padeyes on the center section as disclosed by Kurtgis in the basket of claim 12 to provide a means for lifting the basket with cables

17. Claims 14 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel, Keenan, Kurtgis and Steyn in view of Serden (7,000,795).

18. Regarding claim 14, Haenszel, Keenan, Kurtgis and Steyn disclose the invention except for the use of rollers on the wing sections. Haenszel discloses rollers (70) on the center section. Serden discloses a container with a center section and wing sections with a roller at the outer end of the wing section to facilitate moving it out from the center section as discussed above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of rollers on the wing section as disclosed by Serden in the basket of claim 14 to facilitate moving the wing section out from the center section

19. Regarding claim 15, Haenszel discloses a means for locking the wing section the center section comprising holes and pins (Figures 2 and 8, A-D and pin 65, column 4, lines 29-43).

20. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel, Keenan, Kurtgis, Steyn and Serden in view of Friedman et al.

21. Regarding claim 16, Haenszel, Keenan, Kurtgis, Steyn and Serden disclose the invention except for the use of a polytetraflouroethylene for the bushings. Friedman et al discloses the use of a polytetraflouroethylene (Teflon) as a bushing between inner and outer tubular members (Figure 4, column 2, lines 56-64). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a polytetraflouroethylene bushing as disclosed by Friedman et al in the basket of claim 15 because it is known to use polytetraflouroethylene as a bushing material between inner and outer tubular members that telescope.

22. Regarding claim 17, Haenszel discloses a tool cradle in the center section (Figure 9).

23. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haenszel, Keenan, Kurtgis, Steyn and Serden in view of Moran. Haenszel, Keenan, Kurtgis, Steyn and Serden disclose the invention except for the use of brass for the bushings. Moran discloses the use of brass as a bushing between inner and outer tubular members (41, Figure 6, paragraph 0040). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a brass bushing as disclosed by Moran in the basket of claim 15 because it is known to use brass as a bushing material between inner and outer tubular members that telescope.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-

4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Nathan Newhouse  
Supervisory Patent Examiner  
Art Unit 3727

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